[Information on councils at the district or tribal levels will be found in categories 634, 619, and see also 635.]

/323 cont./
691 have studied it above. It aims at re-establishing a distributive
695 integrity among riparian patrimonies, thus bringing into play an agrarian order on whose exact nature it has been necessary to reserve judgment.

423 Finally there are the conflicts of personal or landed-property
691 order. The procedure — it is indeed then a matter of procedure — is in two parts. The temporal authority, made cognizant first, brings about and records the agreement of the parties in the person of a muh'akim, most often a religious or scholarly individual. Who is this personage exactly?

Judgment or Arbitration?

623 The judiciary attributions in Chleuh /Shluh/ country are en-
634 trusted today to a collegial Tribunal. This is an extension of the
619 former competence of the jemâa, which customarily dealt with
692 only public law and the first phase of the judiciary instance properly speaking. But this extension doubtlessly is not exorbitant of a lively communitarian tradition, which is explained by the fact that, in contrast to the feudal forms observed on the plain, it impressed the reformer.

/324/ On the other hand, and on the historical plane, nothing permits affirming that in a number of epochs this extension of
[627] competence was not produced spontaneously. The demarcation between the natures of the public law and of the private law is tenuous since most of the landed-property litigations arise from conflicts between groups or subdivisions of groups, which is also the theme of the public life of the canton. Some written traces of settlements of this sort authorize the hypothesis.

/The following two paragraphs are in small type in the original source./ An act of 982 Heg.: 1572, concerning the well-known gens of the a. D'alh'a and some persons from Tawanghast, mentions that one of those interested "produced, in the bosom of the jemâa, the act of guarantee of his mother's dower," kharraja ᶜala wasat'i'l-jamâᶜa. In this affair, obviously of private law,

623 /324 cont./
634 the intervention of the collectivity appears to have a jurisdic-
619 tional or notarial value. This testimony is important. It is not
692 at all isolated.

In the old Seksawa titles one often finds mention of the jemâa not only as Senate, or as guardian of public order, but in [693] judiciary or arbitral attributions. A writing of 1042 Heg.: 1630, in a. H'adduyws, mentions it sitting simultaneously with a "cadi." More recently, in 1315 Heg.: 1897, a long piece relates the meeting of the entire jemâa of the Idma, with its two moqaddem-s, in order to resolve a serious matter, which, taking account of the reticences of the text, appears to have been the rape of a notable's daughter.

The jemâa, moreover, is always present, like the chorus of old tragedy. But it is also often the protagonist of the piece, [792] either if it exercises its function openly, or if it acts only indi- [794] rectly, through personages who tend to differ with it or even compete with it: profane chiefs like the moqaddem or the amghar, men of piety, of study, or of benediction, like the t't'aleb, the fqih, the agurram.

692 There is one point, however, where a division of labor seems
693 always to operate. This is in the landed-property and successoral procedure. The distinctive trait in this is the dualism. The affairs, first presented to the chief or to the jemâa, are referred to a personage who has been agreed upon by the two parties. In this instance, it was most often the marabout of the zaouias of Assttif or of sidi Ah'med u Âli or of Bu^{c}anfur, far in the plain. Sometimes, too, it was a specialist called "cadi" (1).

1. On these personages in the Atlas and the Sous, cf. J. Berque, "Un glossaire notarial arabo-chleuh de Deren (XVIII^{e} siècle) /An Arabo-Shluh notarial glossary from the Deren (eighteenth century)/," R. afr., 1950, pp. 388 sq., with references to jurists of the South.

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/350/ /The following paragraph is in small type in the original source./ Here is an act of 1168 Heg.: 1755. It concerns the jemâa of Ad'erdur (Idma). It specifies the ikhs of each of the personages mentioned: A. Abbû, a. Ikru, a. Ighechchi (today: a. Dris), a. Arbâi (today Ichâwiyin), Azarra (disappeared), a. Bjikko (disappeared), a. Bajja. That is, 8 ikhs-s as opposed to only 6 today, among which one finds the a. Ikru, a. Uchâwi, a. Dris, a. Bakkin. Two have disappeared. Others have dissolved and are no longer counted as ikhs-s. The laws of these evolutions would merit a monographic analysis, which cannot be undertaken here. Roughly, these ikhs-s, each of which furnished an assistant for the chief of the village, are still the same as in our day. Examples of such permanence, unheard of with regard to the incertitudes of the Morocco of the plains, would be indefinitely renewable.

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It is true that there we are fully in public law. The atmosphere is quite different as soon as one passes to acts concerning the conjugal family: and the latter is alone to appear here, either at the moment of its constitution by marriage or on the occasion of all the acts implying its exercise or its perpetuation.

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"Adoption," assyas, tabannî, constitutes a first divergence with the orthodox system. One thus sees crop up on the plane of [illegible] law a form that elsewhere in North Africa has remained on that of suppletory custom (1).

1. Cf. G.-H. Bousquet and R.-P. Demeerseman, "L'adoption dans la famille tunisienne /Adoption in the Tunisian family/," R. afr., 1937.

It is nevertheless rare in Seksawa, and these lateral modes of augmentation of the family are far from assuming there the same importance as elsewhere. The strict adaptation to the fiqh has eliminated here the interferences between the pacts of work or of alliance and filiation, so characteristic of the Moyen /Middle/ Atlas. An effect, let us say, of "acculturation." The Seksawa system diverges from the fiqh on another point. One knows that in the latter representation does not exist. Trace perhaps of an

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682 And they express a climate completely different from private vengeance. And here are some examples:

175 /The following seven paragraphs are in small type in the
683 original source./ Ammern, 1232 Heg.: 1817. A specialist in the examination of wounds (we would say that he evaluates "incapacities") sets the idemnity, leqçaç, corresponding to the loss of an eye. It is a sum of money, it is not the eye of the guilty one!

Ammern, 1167 Heg.: 1754. A father, afflicted by a prodigal and quarrelsome son, settles 80 o. for his account and henceforth disengages himself, min jamᶜ umur as-sufahâ' wa jamᶜ il-achrâr, if henceforth the young man should occasion: youthful follies, wounds and bruises inflicted upon others, and for which the old man indemnifies a series of victims for the past, by contract in a way.

175 Ammern, 1166 Heg.: 1753. A divorced woman has been
681 sentenced to a heavy fine, 30 o. A third party pays it for her, not without acquiring, it seems, certain rights over the guilty one. In any case, from then on, he relieves her of all responsibility, "as the jackal is relieved of that for the blood of Joseph," picturesque Biblical reminder.

175 Tasa, 1242 Heg.: 1827. An expert evaluates the wound,
683 the result of an "act of destiny" inflicted by Lh'sen Ubaha (a euphemism to designate the guilty one), "concerning the head of the old Sâid Wakrim." Valuation.

Fatwa of the son of sidi Lh'sen u Tiqqi (1147 Heg.: 1735). The rate applicable to a facial wound is evaluated at 1/12 of the dîâ, in other words 72 mithqâl-s; in coin, ᶜabbâsîya. This by reference to Khalîl!

175 An agreement of 1274 Heg.: 1858 between the jemâa-s of
682 the villages of Tamt'ddit, Tagunit, Tinwalin, Tamezgurt (the
[623] Imt'ddan tetrapolis). The piece is written by the hand of the
[628] marabout of Assttif, sidi Âbdallah b. Ah'med. It is agreed that the dîâ for voluntary or involuntary homicide is 100 mithqâl-s.

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[For information on the council of the agadir -- a body of notables who see to the functioning, maintenance and security of the cantons or moudas agadirs (store houses) -- see categories 571 and 343.]

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/footnote 3 continued/ des Haha /Social and domestic organization of the Haha/," Bulletin de l'Afrique française, 1905, Rens. coloniaux /Colonial information/, p. 9. Actually made up of several family groups ("ikhs") of diverse origins, the "mouda^{c}" has less importance and cohesion in the independent regions than the fraction.

One must bear in mind, in order to evaluate the observations made by Doutté in the north of the Haha, that the country described by him had long ago been transformed by the Makhzen /makhzan/.

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and which in our administrative terminology we call the subfraction. A "Friday mosque" in which passing strangers come to ask for hospitality, an "agadir" or collective storehouse, in the regions where this /152/ institution has been preserved, and especially the existence of a "jema^{c}a," assembly of all the men able to bear arms, such are the institutions of the "mouda^{c}."

The political activity of this little group is almost nil. In the independent tribes, the "mouda^{c}" most often is only an administrative division that permits dividing up local duties: turn at hospitality in order to feed strangers, turn at feeding the taleb, manure or tillage corvée, repair of séguias. Each "mouda^{c}" possesses, finally, in the vicinity of the hamlets, its grazing lands, its forest of brushwood, where people lay in supplies of wood for heating and which is cleared by fire when one wishes to take a chance on a harvest of barley on unirrigated lands. This is not a question of collective lands of the tribe, but rather of joint family-goods. A stranger to the "mouda^{c}" would not be able to settle there without permission, and when, in rainy years, these uncultivated lands are worth the trouble of being cleared and sown, one sees each family hurry to claim its part of them.

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632 621 [592] When the "mouda^{c}" made up of several hamlets is an active social unit, as happens in most of the valleys of the Haut-Atlas /High Atlas/, the heads of all the households in the hamlets that constitute it deliberate jointly in order to regulate the details of life. But if, according to common practice, the assembly is open to all the men married for a year, only the respected representatives of families, the heads of the "ikhs," make decisions in the name of all.

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623 [346] The meetings of the council of the "mouda^{c}," to which the name "jema^{c}t" is often given, are customarily held in the Friday mosque, which is the central institution, and perhaps this social group's reason for being. The turn for feeding the taleb -- a hired outsider who instructs the children in the reading of the Koran, drafts letters or legal documents, and furnishes amulets to cure illnesses -- maintenance of the house of prayer, systematic regulation of the hospitality owed to strangers who come to spend the night in the mosque usually built apart from the village, such are the little practical problems that the assembly must solve in the best interests of all. The "jema^{c}t" augments its activity by watching over the protection of the crops, fixing the successive periods of utilization of the forest of argan trees for pasture or the harvest of the berries; it also sets the time when one can begin the plowing or the harvesting of walnuts (1),

[212] [755] [358] [574]

[185] [241] [245] [624]

[778] [787]

1. For magical reasons, it is often prohibited by the jema^{c}t to plow before a family that possesses "baraka" has found that circumstances are favorable for beginning the work. Cf. Laoust, Mots et Choses berbères /Berber Words and Things/, pp. 313-315. For other reasons, the harvest of walnuts or olives, which is done on trees belonging in common to a large number of owners, could be done only in the presence of the entire group, and it, too, is regulated by the council.

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623 and intervenes to regulate the use and repair of the seguias; fi-
185 nally, it often designates minor functionaries remunerated by the
241 /220/ community for the systematic regulation of irrigation:
245 these are the ones that are called by the name of "amazzal," or
624 again the "little inflas," or the "inflas of the water."

623 Sometimes it is the council of the "taqbilt" itself that inter-
627 venes in order to apply to those who act contrary to the crop
681 police the fines called "azzain n igran," fines of the fields. But
625 most often each "jema^{c}t" of a "mouda^{c}" fixes these penalties as it likes and collects the fines for its profit without swerving from a traditional tariff known to all. Moreover, it is in this form of
671 the "azzain n igran" that the customary law at the heart of the
177 "mouda^{c}" persists longest, even when the progress of the penetra-
632 tion of the Makhzen /makhzan/ has led to its disappearance in the country.

623 Thus, for reasons that are related to the conditions of mate-
184 rial life, the assembly of the "mouda^{c}" often assumes great local importance. Even in regions like that of the Haha, where the population is dispersed over the whole territory in isolated houses, the use of forest pastures, the execution of tasks in common by mutual assistance contribute toward maintaining the tradition of
623 the "jema^{c}t" councils. Meetings are held when necessary in the
346 Friday mosque, which is sequestered, like all the houses in this
361 country, on a solitary hill (1).

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1. It may happen that the organization of the "mouda^{c}" develops on the model of that of the "taqbilt" and that it is then directed by a moqaddem. This is the case in several small tribes of the Seksawa (the Ait Haddiyous in particular). This event occurs in a region where the "taqbilt," divided into three thirds, are stronger than elsewhere; one grasps here from life one of the phases of the appearance of new autonomous fractions being formed by simple growth of the "mouda^{c}." One also sees from

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/footnote 1 continued/ this how difficult it can be at certain stages of the constitution of small Berbère /Berber/ societies to distinguish the subfraction from the fraction, /or the fraction from the tribe.

*634 II. The council of the canton. - The "taqbilt" council forms the essential institution of the little autonomous republic of a Berbère /Berber/ canton. While the "jema^{c}t" of the [632] "mouda^{c}" is, in appearance at least, democratic, since it brings [623] together all the household heads, the representation of the families in the bosom of the council of the "taqbilt" preserves a more marked oligarchic character. Each "ikhs" is in fact repre- [613] sented by a single one of its members. Often, even, each ham- [621] let may delegate only a single person designated by a turn, which changes every year, /221/ among the heads of the various [556] families of the place. Usually it is considered that in order to become a member of the council of the canton, which is also sometimes called the "diwan," it is advisable to be rich in order to be able, in turn, to receive the tribal council fittingly in one's house; it is good, moreover, to be clever at government and "to know how to speak in the assemblies" (1).

1. Sitte und Recht /Custom and Law/ p. 6.

Sometimes tradition requires the representative of a family to speak in the name of a certain number of households -- ten in the south of the Haha, twenty among the Ida Ou Tanan (Aït Ou^{c}Azzoun).

The members of the "diwan" or canton council are most often called, in the Haut-Atlas /High Atlas/, "the Aït Arba^{c}in" -- the forty. It is not without interest to note that this term "Aït Arba^{c}in" designates in almost all Berbère /Berber/ Morocco,

/378 cont./

/footnote 1 continued/ the Ida Ou Nifi a day's march away in the mountains.

Compare Trenga, "Les Branès," Archives berbères, Vol. I, Part 4, p. 318.

Another manner of dividing the tribes, still more artificial, consists of grouping the different hearths by groups of ten in order to constitute what was called a "makhzen kanoun," a tax unit that was to furnish contributions in kind upon the passage of the harkas (2).

2. At the Touat, among the Chauwya of Morocco, the unit is the "diffa," so named because it designates a group of inhabitants charged with furnishing a "diffa" to the army of the Makhzen /makhzan/ when it passes through the country (A. C. P. Martin, Quatre siècles d'histoire marocaine /Four Centuries of Moroccan History/, pp. 32, 60, 115, 437). We have found in the high valleys of the Nefis the "aserdoun" -- mule -- because the annual contribution of this unit was a mule offered to the sultan or to the kaid.

While in the poorly subjugated regions the new divisions established by the Makhzen /makhzan/ are still confounded with the social units of former times and consequently have been capable of reconstituting their council of Aît Arbaʿin in times of "siba," the parts most directly affected by the political transformation no longer have anything but "khoms" without an assembly, "mia" or "toulout" without political personality. We have told how under these conditions the only natural unit that still existed was the simple "jemaʿa" of a village or of a group of hamlets grouped around its mosque and continuing to apply obstinately the customary petty rules of agricultural life, sanctioned by

4: Hoffman E-4 (no date) 1967 MW11 Shluh MW11 (ca. 1900)

Among the sedentary tribes the importance and function of the commune varies greatly depending upon circumstances, particularly upon the nature and independence of the community units. Among the Haha (530-541) the settlement pattern is one of widely dispersed households, and nucleated communities are rare; furthermore all the minor lineages within a commune are generally related so that the commune is often equivalent to a major lineage. Under these circumstances the interest and requirements of the commune prevail over those of its component units, and the solidarity of the group is manifested by its sense of common origin, unity, and of *h'orma* or "honor" – the violation of which by an outsider sanctions a vendetta. The commune has a special mosque, a communal granary, a communal cemetery, and communal property such as that surrounding the settlements, pastureland, and brushwood forests (where the members obtain their cooking wood and where they can attempt to grow a crop of barley if they wish to gamble on unirrigated land). The commune is also characterized by a representative council, and an elected or appointed chief; its principal functions are the maintenance of the communal mosque as a religious center, a school, and a communal center; the maintenance of the granary; the maintenance of the cemetery and its enclosure, and the distribution of lots to the member families; the arbitration and adjudication of boundary and property disputes between its members; the division of inheritances; the maintenance or lodging of strangers; the distribution of irrigation water; the policing of cultivated fields and of fruit trees; the planning and regulation of communal labor for plowing, harvesting, forest clearing, or irrigation works; and providing officials for certain domestic ceremonies, particularly weddings (Doutté, 1905).

In situations where villages have assumed most purely local administrative functions, the commune – and the larger unit, the district – concerns itself more with problems of political stability – adjudicating and arbitrating disputes between its component units, administering the commune market, and generally maintaining the peace. Hart's description of the commune (*fariqath*) among the Beni Uriaguel (99), who have well-developed village organizations, reflects this difference in emphasis:

4: Hoffman E-4 (no date) 1967 MW11 Shluh MW11 (ca. 1900)

C. FORMAL LOCAL INSTITUTIONS FOR SOCIAL ACTION AND CONTROL

1. *Berber Representative Councils*

Formal traditional tribal controls among the Berbers – Shluh, Beraber, Riffian, and Zenata alike – are based upon a system of superimposed representative councils. Most commonly these are designated by the term *jemaa*, a slight Berberization from the Arabic *ejjemaa*. Other terms, however, are also in use: such are *ait arbain* ("sons of the forty") – employed throughout the High Atlas, Middle Atlas, and the Rif, usually with reference to the council of a tribe or independent district; *diwan* – used by some of the Shluh to refer to the council of the district; *inflas* (pl. of *anflous*, "notable") – used by the Shluh of the Sous region and the Anti-Atlas; and *ayarau* (pl. *iyarawen*) – used in the Rif to refer to the tribal council (Coon, 1931, p. 96; Loubignac, 1942, p. 280; Montagne, 1930, pp. 220-222).

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a. *Structure*

In theory, the *jemaa* of the minor lineage or village (the smallest groups to have councils) among most Berber groups (the *ksour* inhabitants excepted) are composed of the heads of each family or tent within the minor lineage or village, each of these family heads having a voice in the deliberations. In practice only the most "notable" of these (usually one per extended family) actually participate in council activities – the status of "notable" (*ikhatar*, pl. *ikhataren* in *Tamazight*) being achieved entirely on the basis of personal character, age, courage in combat, religious piety, acquired authority, or wealth. The *jemaa* therefore traditionally has the character of a gerontocracy; in this they are supported by the general attitude that the elders are the *ait l'ak'oul*, that is, the people of experience and judgment, and they should guide and command the young. Young married men, heads of families, may attend the council, but must remain content to listen to and approve the words of their elders (Doutté, 1905; Loubignac, 1942, p. 280; Montagne, 1930, pp. 220-224).

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Some exceptions exist to this general rule. Thus Coon (1930, pp. 96-98) found that among some of the Riffians the village council (or

4: Hoffman E-4 (no date) 1967 MW11 Shluh MW11 (ca. 1900)

minor lineage council) was composed of two or three boys from each of the extended families claiming descent from the common founder of the minor lineage. These boys were chosen by the members of the comune council (the "council of the great"), supposedly by virtue of their superior intelligence and promise of future ability. These junior notables followed the general pattern governing council conduct – electing a *moqaddem* (pl. *moqaddemin*; "moderator"), meeting in the village mosque, and judging minor cases brought before them. Their elders saw to it that their decisions were enforced. Since Coon also found many cases in which village councils were absent, it seems reasonable to conclude that in this region, at least, the institution did not serve an important function.

Each of the social units existing above the minor lineage or village customarily has its own representative council composed of representatives or delegates from the inferior social unit (usually this is equivalent to a delegate from the council of the inferior unit). Thus the *jemaa* of the commune consists of representatives from each minor lineage council; the *jemaa* of the district may consist of representatives from each commune or village; and the *jemaa* of the tribe, of representatives from each district. In the Rif, however, the district council is absent (this is also the case, naturally, among those Beraber groups in which the district is not present), and the tribal council is composed of representatives from each commune or village (Coon, 1931, pp. 96-98; Loubignac, 1942, p. 280; Montagne, 1930, pp. 219-221).

Among the *ksar*-dwellers of southern Morocco the institution of the *jemaa* shows considerable modification. In Ksar Nesrat, for example, superimposed councils are absent – instead the tribal government is embodied in a single bicameral organization composed of a superior assembly (*Jemaa el Kebira*) and an inferior assembly (*Jemaa el 'amma*). The seats within the superior assembly are the property of the noble extended families within each of the seven division of the *ksar* (these divisions are probably morphologically equivalent to major lineages or communes – see Table III), and are filled by representatives selected by each of these noble families. Each division is therefore represented in proportion to the number of its noble families. Once designated, the councillors

4: Hoffman E-4 (no date) 1967 MW11 Shluh MW11 (ca. 1900)

hold office for life, except in case of grave error or commission. ooo The two presidents, the *imgharin*, are chosen for life by the members of the superior council, and represent the *ksar* before outsiders (La Chapelle, 1929, p. 32).

The members of the inferior or peoples' council are chosen by the superior council from among the most violent and boisterous toughs in each division, for they are responsible for carrying out the decisions of the superior council and for policing the *ksar*, and the theory is that this work will be facilitated by the fear which they inspire. The president of the inferior council, the *amghar n l'amt*, is similarly selected by the members of the superior body, and acts as a police-chief for the *ksar* (La Chapelle, 1929, p. 33).

Such a bicameral organization apparently is common throughout the Lektawa region, with the common variation that the superior council has only one president, or *amghar*. To the east, in the Tiallalin region of the Oued Ziz, this political structure apparently becomes simplified further, for Laoust reports the presence of only one council. In theory this is composed of the notables or respondants (*amur*, *bab n umur*, *amasay* in Berber; *mezrag*, *reffad*, or *hamil* in Arabic) of each division, and is headed by a president or chief (*amghar n taqbilt*) elected annually by the noble families of the *ksar*. In practice, however, the same individual may become chief year after year, and he may even select the respondants from each division. The chief also appoints an assistant (*amghar ellemezrae*) each year from among the divisions, who acts as a controller or police-chief over the respondants and is therefore morphologically equivalent to the *amghar n l'amt* in Nesrat (La Chapelle, 1929, p. 32; Laoust, 1934, pp. 143-144).

Among all Berber groups the less important councils customarily hold their meetings in the local mosque. District and tribal councils commonly meet at district or tribal market places. 623 • 634 366 368 635

b. *Function*

Among the traditional Berbers the function of each representative council is to deal with those matters which interest it as a whole and concern only its members. Within this sphere it exercises what are commonly referred to in Western political thought as executive, 623 635 634

4: Hoffman E-4 (no date) 1967 MW11 Shluh MW11 (ca. 1900)

623 635 634 legislative, and judicial functions. The council concerns itself with the maintainance of internal equilibrium between individuals by dispensing and enforcing the customary law, modifying it if necessary; maintains relations with outside groups, and conducts wars against them; administers the communal institutions (mosque, saints' tombs, mosque school, communal granary and cemetery, and irrigation system); distributes water according to the local pattern of water rights; administers and distributes communal lands both for purposes of agriculture and grazing; fixes the schedule for agricultural operations or nomadic or transhumant migration; and in some cases also manages the local market (Coon, 1931, pp. 96-109, 112-114; Deverdun, 1942, p. 307; Doutté, 1905; Hart, 1954, pp. 65-66; La Chapelle, 1929, pp. 32-33; Laoust, 1934, pp. 140-146; Loubignac, 1942, pp. 280-281; Paniagua y Santos, 1948, pp. 14-15).

The *jemaa* generally carries out its functions by appointing or electing executors of various sorts and delegating power and authority to these individuals. The most important of these is the president of the council itself, known as an *amghar* or *sheikh* if head of a district or tribal council, and otherwise as a *moqaddem*. Other functionaries include the administrator of communal labor (particularly on irrigation projects), the administrator or distributor of water, the communal policeman, the religious teacher, and specialists in the administration of customary law (known as *anezzarfou*, pl., *inezzourfa*), though the council reserves the power to revise and modify this legal code (Berque, 1955, pp. 107, 112; Hart, 1954, p. 65; Loubignac, 1942, pp. 280-281; Paniagua y Santos, 1948, p. 14).

671 c. *Customary Law*

Traditionally, all disputes among the Berbers, both of a civil or criminal nature, were settled through reference to traditional customary law (*azrif*), which was largely uncodified and showed slight variations from tribe to tribe. Although replaced among the plains populations by the Moslem *Shari'a*, Berber customary law is still functional in civil cases throughout the Middle and High Atlas (1957), partly through French intervention on its behalf (Coudino, 1942, p. 431; Johns Hopkins University, 1956, pp. 230-231).

The local and communal aspects of the *azrif* are known variously

4: Hoffman E-4 (no date) 1967 MW11 Shluh MW11 (ca. 1900)

Shooting at a man but missing him,
Collection of blood money,
Failure to attend weddings outside the commune,
Speaking to women in market.

Tribal Council

Adultery caught in the act,
Wounding,
Murder.

681 The nature of the crime also determines the fine imposed. All [685] *'urfs* on record are for the most part long lists of fines for infractions [623] of various rules. If the crime is theft, the fine also varies according [634] to the value of the object stolen. These fines are generally paid to [635] the *jemaa* having jurisdiction over the case. Thus, in Nesrat the [191] fine paid by the respondant of a division of the *ksar* to the *amghar n l'amt* accrues to the members of the superior council (Johns Hopkins University, 1956, p. 232; La Chapelle, 1929, pp. 32-33).

682 This system of jurisprudence, while functioning satisfactorily in most cases, often broke down when the crime was homicide, either because the initial act caused such immediate reprisal and developed into a war so quickly that the councillors found themselves fighting on one side or another before they could call a meeting, or because the tribal council lacked the power to enforce its decision. This 692 situation was forestalled somewhat among some of the Shluh tribes through the institution of annual "rounds of justice".

... Lorsque les cantons [districts] sont ainsi groupés de manière à constituer une véritable tribu, formée d'un certain nombre de petites unités autonomes, on procède souvent à des tournées de justice exécutées dans tout le territoire, au cours desquelles toutes les infractions commises pendant l'année sont examinées et punies. Toutes les forces de la tribu viennent alors prêter leur appui à chacun des cantons pour faciliter le règlement rapide des différends sans qu'il en résulte aucun danger pour la paix intérieure.

Cette coutume, naguère observée chez les Igezzoulen de l'Anti-Atlas occidental, est encore très vivante dans la confédération des Ida Ou Tanan, chez les Ait Ou'azzoun [545] et les Ifesfasen [544]. La tournée de justice est accomplie en suivant un cérémonial minutieusement observé. Chez les Aït Ou'azzoun, par exemple, tribu formée de quinze "afous" ou

4: Hoffman E-4 (no date) 1967 MW11 Shluh MW11 (ca. 1900)

000 women. In this way there are generally two sides fighting each other before the day is over, and they stay there and fight until one side has won. If the tribal council wins and succeeds in burning the house of the murderer, it burns the rest of the houses of the *bone* as well, and cuts down as many of its trees as it desires.

The *bone* then flees in a body to another fifth, to another tribe, or out of the Rif entirely. If the members, thinking already of vengeance, cannot stand the sight of their trees being cut down and their houses caved in, they select a bull from the herd which they are driving into exile with them and entrust it to the leader of the mosque or to a student, who leads it back into the presence of the tribal council and slaughters it there [thereby "casting" an *'ar* upon them]. If this is done the tribal council is compelled to let them go back again and to permit them to pay the fine. Once the bull is slaughtered the tree-cutting and other destruction must cease. Many *bones* are too proud either to pay or to send a bull, so that they become destitute and homeless through their pride, providing they are not strong enough to defend themselves against the tribal council... (Coon, 1931, pp. 104-105).

621 As a result of these attitudes and institutions, vendetta warfare was the normal state of existence throughout much of the Berber highlands before the French Protectorate (Loubignac, 1942, p. 286).

d. *Council Presidents or "Chiefs"*

• 623 554 634 635 As indicated above, almost all representative councils have presiding officers known variously as *moqademin* (pl. of *moqaddem*), *imgharin* (pl. of *amghar*), or *shiukh* (pl. of *sheikh*). In the traditional Berber republic this individual was only *primus inter pares*; he executed the wishes of the council, and he depended largely upon his personal qualities of moderation, persuasion, intelligence, and good luck. If he attempted to abuse his power the council punished him by a heavy fine, by burning his house or tent, or even putting him to death. Despite the threat of these sanctions, the tribal or district *jemaa* usually had to watch its president most carefully lest he usurp power or establish himself permanently (Doutté, 1905; Montagne, 1930, pp. 224-225).

[687] 634 635 554

The powers and functions of the council president throughout most of the Berber country have been well described by Loubignac, who we will here follow closely. Of the various council presidents the most important were those of the independent district (among

4: Hoffman E-4 (no date) 1967 MW11 Shluh MW11 (ca. 1900)

retained by the *jemaa*, for this body is often reluctant to delegate completely its authority and functions. In theory, and generally in practice, however, the *amghar* represents the tribe in its dealings with neighbouring and foreign social units; protects the interests of the community and the customs and laws of each unit; executes the decisions of the *jemaa*; proposes measures of general communal interest and certain public utilitarian projects, such as irrigation works; oversees the seasonal migrations, or establishes the schedule for planting and harvest; fixes the contribution to be made by each group in money or goods for the maintenance of the public works; acts as administrator of the tribal treasury if there is one (this is particularly the case among the *ksar* of southern Morocco); and, finally, being responsible for public order and safety, supports the police and applies the schedule of fines (Johns Hopkins University, 1956, pp. 228-229; Loubignac, 1942, p. 283).

The powers of the *amghar* are somewhat more extensive in the military sphere, particularly in time of war. He has the authority to compel each division to buy a certain number of horses and guns; together with the tribal *jemaa* he determines the size of the contingent to be furnished by each group and the supplies to be carried, as well as the place of combat and, in case of success, the division of spoils (Johns Hopkins University, 1956, p. 229; Loubignac, 1942, pp. 283-284).

The fluid and often vague separation of powers and responsibilities between the *jemaa* and the *amghar* acts, as may be expected, as a severe restraint upon initiative in leadership.

... La confusion des pouvoirs était grande; l'assemblée des notables, qui les détenait tous, n'abdiquait pas volontiers entre les mains d'un seul; égalitaire à l'excès, elle se montrait résolument hostile à toute tentative de pouvoir personnel; aussi contrôlait-elle avec méfiance les initiatives de l'Amrhar, de sorte qu'il n'osait rien entreprendre sans la consulter; l'autorité de chef était discutée dès qu'elle voulait s'affirmer; elle dépendait moins de son titre que de sa situation personnelle, de son prestige, de la fermeté de son caractère, de la puissance de ses proches, de la crainte qu'il savait à l'occasion inspirer; la situation de ses répondants, ses représentants dans les fractions, était encore moins assise. Dans cette confusion, chacun s'occupait de tout, et le nombre des interlocuteurs obscurcissait encore le débat. Pour éviter des froissements qui auraient entraîné de graves incidents, on s'efforçait de réaliser l'unani-